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ALEXA INTERNET, INC. and NIALL
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GIRAFA.COM, INC.,

Plaintiff,

v.

ALEXA INTERNET, INC.; NIALL
O'DRISCOLL,

Defendants.

CASE NO. CV 08-02745 RMW

**[PROPOSED] ORDER GRANTING
DEFENDANTS' SPECIAL MOTION TO
STRIKE PLAINTIFF'S THIRD CLAIM
FOR RELIEF**

Date: September 5, 2008
Time: 9:00 a.m.
Dept.: 6, 4th Floor
Judge: Honorable Ronald M. Whyte

1 Defendants Alexa Internet, Inc. and Niall O'Driscoll's ("Defendants") Special Motion to
2 Strike Plaintiff's Third Claim for Relief having been fully considered along with Plaintiff
3 Girafa.com, Inc.'s ("Plaintiff") briefing and the evidence before the Court;

4 THE COURT HEREBY FINDS THAT:

- 5 1) Plaintiff brought its Third Claim for Relief in response only to Alexa Internet,
6 Inc.'s patent infringement lawsuit that is pending in the Eastern District of Texas; and
7 2) Plaintiff is unable to show that its Third Claim for Relief has any probability of
8 success on the merits.

9 **IT IS HEREBY ORDERED THAT** Defendants' Special Motion to Strike Plaintiff's
10 Third Claim for Relief is GRANTED.

11 **IT IS FURTHER ORDERED THAT:**

- 12 1) Plaintiff's Third Claim for Relief in the above-captioned case be stricken without
13 leave to amend; and
14 2) Defendants are entitled to their reasonable attorneys' fees as authorized by Cal.
15 Code of Civ. Pro. § 425.16(c).

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17 **IT IS SO ORDERED.**

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19 Dated: September _____, 2008

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21 RONALD M. WHYTE
22 United States District Judge
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